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No.

In The

Supreme Court of the United States

October Term 1995

In re **JOHN LUCILLE,**

Petitioner,

v.

THE HONORABLE WILLIAM J. BAUER *and*
THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Respondents.

Corrected Petition For Writ of Mandamus
Pendete Lite To The
United States Court of Appeals For The Seventh Circuit.

PETITION FOR WRIT OF MANDAMUS

John Lucille, *Pro se*
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Questions Presented For Review

I. Whether or not Petitioner is entitled to evidence of, and access to, tape recordings of court proceedings in the possession of court personnel, which would tend to show and prove, fraud upon the court, in the form of altered transcripts, fraudulent judgments and fraud in process under the common law.

II. Whether or not Petitioner is entitled to "back-up" tapes held by court clerks, court reporters/stenographers, or other court personnel which would tend to prove fraud upon the court in his *Shakman* case in the lower United States District Court.

III. Whether or not a United States Court of Appeals is required to order "back-up" tapes of court proceedings to be produced where a litigant demands a complete record under the common law, and is able to show that court transcripts, court dockets and court orders have been fraudulently and unlawfully altered to the damage, prejudice and detriment of the petitioner.

TABLE OF CONTENTS

	Page
Questions Presented For Review	i.
Table of Contents	ii.
Table of Authorities	iii.
Jurisdictional Statement	1.
Constitutional and Statutory Provisions Involved	2.
Statement of the Case	4.
Reasons for Granting the Writ	5.
Conclusion	8.

INDEX TO APPENDICES

Appendix A	Opinion of the United States Court of Appeals for the Seventh Circuit, No. 95-2109, The Honorable William J. Bauer, presiding, (Issued August 28, 1995)	9.

TABLE OF AUTHORITIES

Cases

Page

Allen v. City of Chicago, 92 C 4122 (N.D.Ill.1992) 6
Hazel-Atlas Glass Co. v. Hartford-Empire Co.,
322 U. S. 238, 88 L.Ed. 1250, 64 S.Ct. 997 (1944) 6
Marbury v. Madison, 5 U.S. (Cranch) 137 (1803)..... 1
McClellan v. Carland, 217 U.S. 268, 30 S.Ct. 501,
54 L.Ed. 762 5
People v. English, M., 189 Ill.App.3d 392,
136 Ill.Dec. 795, 545 N.E.2d 319 (Ill.1989) 5
Rockdale Management Co. v. Shamut, N.A.,
418 Mass. 596, 638 N.E.2d 29 (Mass. 1994) 6
Skelly Oil v. Universal Oil, 338 Ill.App.79,
86 N.E.2d 875 (Ill.1949) 5
Wzorek v. City of Chicago, 84 C 9978 (N.D.Ill.1984) ... 7

Constitutional Provisions

U.S. Const. 6
U.S.C. Title 28, Section 1254(1) 1
Ill. Const. 6

Other Sources

	Page
The 1599 Geneva Bible, Herbert 248 (1599)	5
U.S. Court of Appeals for the Seventh Circuit Operating Procedures (Jan. 1, 1989)	5

Jurisdictional Statement

Petitioner appeals pursuant to the Common Law and this Court's inherent powers to exercise jurisdiction under the United States Constitution to the ends of justice by means of the extraordinary writ of mandamus as set forth in *Marbury v. Madison*, 5 U.S. (Cranch) 137 (1803), and its progeny. Statutory jurisdiction is 28 U.S.C. s. 1254(1)

Petitioner appeals a judgment entered in Case No. 95-2109, *John Lucille v. City of Chicago*, the Honorable William J. Bauer, Circuit Judge presiding, United States Court of Appeals for the Seventh Circuit, dated August 28, 1995, a copy of which is included in Appendix A.

Exceptional circumstances exist which warrant the exercise of the Court's discretionary powers in aid of the Court's jurisdiction including, the need in our society to restore the foundations upon which the righteous may execute justice, i.e., a judicial branch which stands for truth, a judiciary which abhors fraud upon the courts, and a judicial system which provides access to the courts for redress of grievances caused by unlawful court process to avoid vigilanteism and breakdowns in our society.

Petitioner is unable to receive relief in any form or from any other court because he has already heard from the former Chief Judge of the highest authority in his Circuit. There is no higher earthly authority to which Petitioner may appeal his demands for a complete record in order to fully prosecute his case of alleged fraud upon the court.

Constitutional and Statutory Provisions Involved

ARTICLE I. SECTION 2 to the Illinois Constitution

No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws.

AMENDMENT XIV Sect. 1 to the United States Constitution

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. Section 1254(1)

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

Constitutional and Statutory Provisions Involved

Illinois Supreme Court Rule 321

The record on appeal shall consist of the judgment appealed from, the notice of appeal, and the entire original common law record, unless the parties stipulate for, or the trial court, after notice and hearing, or the reviewing court, orders less. The common law record includes every document filed and judgment and order entered in the cause and any documentary exhibits offered and filed by any party. Upon motion the reviewing court may order that other exhibits be included in the record. The record on appeal shall also include any report of proceedings prepared in accordance with Rule 323. There is no distinction between the common law record and the report of proceedings for the purpose of determining what is properly before the reviewing court.

Statement of the Case

Pro se petitioner appeals an order of the Seventh Circuit denying his Common Law Writ of Mandamus seeking the production of "back-up" tapes of court personnel which would show that court transcripts, court dockets and court orders have been unlawfully altered to the damage of petitioner and others similarly situated.

Petitioner has a constitutional right to seek redress of grievances with the judicial branch and is entitled to meaningful open access to courts through "back-up" tapes for a true common law appellate record. Said "back-up" tapes are the best evidence to show fraudulent court reporter signatures, altered and deleted testimony, and fraud upon the court, which includes, a former attorney, not of record, unlawfully causing judgment to be entered on behalf of petitioner without his consent, and deleted statements of corporation counsel for the City of Chicago which would show that petitioner is entitled to more employee benefits than he has received. Another attorney for petitioner, Gordon James Arnett, mysteriously died just prior to seeking the release of these very tapes.

Some federal courts of the Seventh Circuit apparently believe they are "above the law" in not complying with Freedom of Information Act requests and reasonable demands from interested parties. This Court should take some steps to ensure that truth is upheld in the federal courts and that routine and reasonable access to truth is not denied a litigant.

Reasons For Granting The Writ

This Writ should be heard and granted to set an example and to send a message to all Circuits. Fraud upon the courts will not be tolerated by the highest Court in the land. For the foundations are cast downe, what hath the righteous done? *Psalm* XI:iii, *The 1599 Geneva Bible*, Herbert 248 (1599).

This Court may issue a Writ of Mandamus in the aid of appellate jurisdiction that might otherwise be defeated by the unauthorized action of the court below. *McClellan v. Carland*, 217 U.S. 268, 30 S.Ct. 501, 54 L.Ed. 762. The common law record imports verity and is presumed correct, but where other facts appear contrary to the record, the court should consider the record as a whole. *People v. English, M.*, 189 Ill.App. 3d 392, 136 Ill.Dec. 795, 545 N.E.2d 319 (1 Dist. 1989)

A Motion to Listen to Tapes of oral arguments under supervision of the clerk's office is deemed "routine" under the operating procedures of the Seventh Circuit Court of Appeals, *U.S. Court of Appeals for the Seventh Circuit Operating Procedures* (Jan. 1, 1989), and Lucille has received tapes from the court in the past. Under Illinois state law, the common law record includes every document filed, and judgment and order entered in the cause and any documentary exhibits offered and filed by any party. Ill.Sup. Ct.Rule 321. In addition, there is no distinction between the common law record and the report of proceedings for the purpose of determining what is properly before the court. Ill.Sup.Ct.Rule 321.

Fraud perpetrated by court personnel reaches to the very heart of our judicial system. *Skelly Oil v. Universal Oil*, 338 Ill.App. 79, 86 N.E.2d 875 (1st App.Dist. 1949), *Rockdale Management Co. v. Shamut Bank, N.A.* 418 Mass. 596, 638 N.E.2d 29 (Mass. 1994), *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 88 L.Ed. 1250, 64 S.Ct. 997 (1944). The type of frauds perpetrated in Lucille's *Shakman* case are not exclusive to his appeal. In 1984, the Executive Committee for the U.S. District Court entered an order in Shakman, 69 C 2145 (1984), that no Shakman petitions would be assigned to the calendar of Judge Marvin E. Aspen, an ex-City of Chicago corporation counsel. Even so, Judge Aspen is being assigned and hearing *Shakman* cases in the City of Chicago by the Northern District of Illinois. See *Allen v. City of Chicago*, 92 C 4122 (N.D.Ill. 1992). Seventh Circuit Judge Bauer is not indicating that the tapes Lucille demands do not exist or are unavailable. The judge has merely indicated that Lucille may not have them for any purpose, even where fraud is apparent and alleged. Lucille is entitled to a complete court record on appeal under the due process and equal protection clauses of the Constitutions of the State of Illinois and the United States of America. Lucille has been afforded no hearing or opportunity to be heard by the federal District and Appellate Courts in Illinois on the subject of the fraud alleged. U.S. Const., Amend. 14, Ill. Const. Art. I, Sec. 2. As U.S. District Court Judge Brian Barnett Duff stated in *Wzorek v. City of Chicago*, 84 C 9978, another *Shakman* case in 1992, concerning the court reporter's tapes to petitioner's now deceased attorney Gordon Arnett:

"...if you could get them, then everybody in the world could get them, and we would be playing them every night on Channel 7, Channel 5, on Channel 2, and Channel 9 and Channel 6 and Channel 32 whenever they wanted them."

Wzorek v. City of Chicago, 84 C 9978, Motion Hearing, July 23, 1992. This is what some judges truly fear. What they really fear is the public exposure and condemnation of the frauds being perpetrated upon litigants behind closed doors, where no cameras are permitted. The problem is that fraud condoned at the top is spread out through the whole system, and this is why people in society begin to take the law into their own hands. The results are Oklahoma City, Waco, Ruby Ridge, etc., where officials in authority begin to believe that they can do anything they desire without repercussion. The record is clear in Lucille's case that the court reporter's transcripts are incomplete where the corporation counsel for the City of Chicago discusses benefit entitlements as they relate to John Lucille. Therefore, Lucille requests, then demands repeatedly the "back-up" tapes which would set the record straight on the issues. The Courts, however, balk at the notion. First the District Court, now the Appellate Court, and the record remains incomplete. John Lucille is entitled to discover and present the truth in Court. What are the Courts afraid of? Fraud. People going to jail, people losing

their jobs, disbarments, impeachments, removals from office for good cause. The question is, will the highest Court in the land close its eyes and ears? Will this court do what is right? They encourage themselves in a wicked purpose: They commune together to lay snares privily and say, Who shall see them? Psalm 64:5, *The 1599 Geneva Bible*, Herbert 248 (1599). Will this Court open its doors and eyes for an African-American from the sewer department in the City of Chicago to investigate or oversee the fraud alleged? Even the President had to hand over his private taped recordings, are the courts above the law? If there's nothing to hide, why the failure to produce? Wherefore, pro se petitioner respectfully requests that this Court oversee his request to produce by way of Writ of Mandamus requiring the Seventh Circuit Appellate Court to issue the proper orders to provide the necessary tapes for petitioner's appeal therein. God is, in the name of Jesus.

CONCLUSION

For the reasons set forth above, and in the honor of Attorney Gordon Arnett of Chicago, who had his life taken over this issue, an extraordinary Writ of Mandamus should issue to review the judgment and opinion of the Court of Appeals in this matter.

Respectfully submitted,

DATED: Sept. 26, 1995

John Lucille PRO SE

John Lucille, pro se.

United States Court of Appeals *do*

For the Seventh Circuit
Chicago, Illinois 60604

August 28, 1995

Before

Hon. WILLIAM J. BAUER, *Circuit Judge*

JOHN LUCILLE,	] Appeal from the United
Plaintiff-Appellant,	] States District Court for
	] the Northern District of
No. 95-2109 v.	] Illinois, Eastern
	] Division.
CITY OF CHICAGO, an	]
Illinois Municipal Corporation	] No. 85 C 5956
Defendant-Appellee.	] John A. Nordberg,
	] Judge.
	]

Upon consideration of the **MOTION FOR COMPLETE RECORD (COMMON LAW WRIT OF MANDAMUS)** filed August 17, 1995, by pro se appellant,

IT IS ORDERED that the motion is **DENIED.**

APPENDIX A